

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RONALD C. GREENLAND,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

20-CV-8303 (KMK)

21-CV-2325 (KMK)

17-CR-0065 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

The Court, having concluded that the motion brought under 28 U.S.C. § 2255 should not be summarily dismissed as being without merit, hereby ORDERS that the Clerk of Court shall electronically notify the Criminal Division of the U.S. Attorney's Office for the Southern District of New York that this order has been issued.

On October 5, 2020, Movant Ronald C. Greenfield filed a motion under 28 U.S.C. § 2255, challenging the legality of his sentence entered in *United States v. Greenland*, No. 17-CR-0065 (KMK) (S.D.N.Y. June 4, 2018), *aff'd*, No. 18-1761 (2d Cir. Feb. 19, 2020). *See Greenland v. United States*, No. 20-CV-8303 (KMK). By order dated October 30, 2020, the Court ordered the U.S. Attorney's Office to answer, and on January 19, 2021, the Government filed its response. (*Id.* Dkt. Nos. 3, 10.)

On March 15, 2021, Movant filed a second motion under 28 U.S.C. § 2255, challenging the legality of his sentence entered in *United States v. Greenland*, No. 17-CR-0065 (KMK) (S.D.N.Y. June 4, 2018), *aff'd*, No. 18-1761 (2d Cir. Feb. 19, 2020). *See Greenland v. United States*, No. 21-CV-2325 (KMK). When a second § 2255 motion is filed before a first § 2255 motion challenging the same conviction is final, district courts generally must treat the second § 2255 motion as an amendment or a supplement to the pending motion rather than as a successive motion. *See Ching v. United States*, 298 F.3d 174 (2d Cir. 2002).

The Court therefore construes this second *pro se* § 2255 motion as a supplemental filing to Greenland's original § 2255 motion. The Court deems this supplement to be incorporated as part of his application for relief under § 2255. The Clerk of Court is therefore directed to: (a) file the second *pro se* § 2255 motion in *Greenland v. United States*, No. 21-CV-2325 (KMK) (Dkt. No. 1), as an amended § 2255 motion in *Greenland v. United States*, No. 20-CV-8303 (KMK); and (b) administratively close the action opened under No. 21-CV-2325 (KMK).

The Court directs the U.S. Attorney's Office to address any new grounds for relief contained in this new filing. The Court will consider an application for an extension of time if the government deems it necessary. Movant shall have thirty days from the date on which Movant is served with Respondent's answer to file a response. Absent further order, the motion will be considered fully submitted as of that date.

All further papers filed or submitted for filing must include the criminal docket number and will be docketed in the criminal case.

CONCLUSION

The Court directs the Clerk of Court to mail a copy of this order to Movant and note service on the docket.

The Clerk of Court is directed to: (a) file the second *pro se* § 2255 motion in *Greenland v. United States*, No. 21-CV-2325 (KMK) (Dkt. No. 1), as an amended § 2255 motion in *Greenland v. United States*, No. 20-CV-8303 (KMK); and (b) administratively close the action opened under No. 21-CV-2325 (KMK).

The U.S. Attorney's Office is directed to address any new grounds for relief contained in this new filing. The Court will consider an application for an extension of time if the government deems it necessary.

Movant shall have thirty days from the date on which Movant is served with Respondent's answer to file a response.

Because Movant has not at this time made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: March 31, 2021
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is written over a horizontal line.

KENNETH M. KARAS
United States District Judge